

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

RAFAEL ELLISON,

Plaintiff,

v.

INTERNATIONAL BROTHERHOOD OF  
ELECTRICAL WORKERS LOCAL 46, et  
al.,

Defendants.

CASE NO. 2:25-cv-00339-JHC

ORDER GRANTING LOCAL 46'S  
MOTION TO DISMISS

Before the Court is Defendant International Brotherhood of Electrical Workers Local 46's (Local 46) Motion to Dismiss Plaintiff's Complaint. Dkt. # 7. The Court has reviewed the materials filed in support of and in opposition to the motion, the rest of the file, and the governing law. For the reasons below, the Court GRANTS the motion.

Under Federal Rule of Civil Procedure 12(b)(6), a court may dismiss a complaint for "failure to state a claim upon which relief can be granted." A motion to dismiss under this rule "tests the legal sufficiency of a claim." *Conservation Force v. Salazar*, 646 F.3d 1240, 1241–42 (9th Cir. 2011) (quoting *Navarro v. Block*, 250 F.3d 729, 732 (9th Cir. 2001)). In considering such a motion, a court "accept[s] factual allegations in the complaint as true and construe[s] the

1 pleadings in the light most favorable to the nonmoving party.” *Manzarek v. St. Paul Fire &*  
2 *Marine Ins. Co.*, 519 F.3d 1025, 1031 (9th Cir. 2008) (internal citation and quotation omitted).  
3 But the complaint must contain more than “[t]hreadbare recitals of the elements of a cause of  
4 action” and “mere conclusory statements.” *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009). It “must  
5 contain sufficient factual matter, accepted as true, to ‘state a claim to relief that is plausible on its  
6 face.’” *Id.* (quoting *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570 (2007)).

7 *Section 1983.*

8 To state a claim under 42 U.S.C. § 1983, Plaintiff must show Local 46 deprived him of a  
9 right afforded under the Constitution and that it acted “under color or state law.” *Belgau v.*  
10 *Inslee*, 975 F.3d 940, 946 (9th Cir. 2020) (quoting *Collins v. Womancare*, 878 F.2d 1145, 1147  
11 (9th Cir. 1989)). Because Local 46 is a private actor, the Court asks: “is the challenged conduct  
12 that caused the alleged constitutional deprivation ‘fairly attributable’ to the state?” *Id.* (quoting  
13 *Naoko Ohno v. Yuko Yasuma*, 723 F.3d 984, 993 (9th Cir. 2013)). To answer this question, the  
14 Ninth Circuit employs a two-prong analysis. *Id.* The first prong evaluates “whether the claimed  
15 constitutional deprivation resulted from ‘the exercise of some right or privilege created by the  
16 State or by a rule of conduct imposed by the state or by a person for whom the State is  
17 responsible[.]’” *Id.* (quoting *Ohno*, 723 F.3d at 994). If the challenged conduct, “entail[s]  
18 functions and obligations in no way dependent on state authority, state action does not  
19 exist.” *Lindke v. Freed*, 601 U.S. 187, 198–99 (2024). The second prong considers “whether the  
20 party charged with the deprivation could be described in all fairness as a state actor.” *Belgau*,  
21 975 F.3d at 947 (quoting *Ohno*, 723 F.3d at 994). In different contexts, the Supreme Court has  
22 outlined four tests to answer this question: (1) the public function test, (2) the state compulsion  
23 test, (3) the nexus test, and (4) the joint action test. *Lugar v. Edmondson Oil Co.*, 457 U.S. 922,  
24 939 (1982).

1 Plaintiff alleges Local 46 has explicitly promoted religious activities and attendance as a  
 2 condition of career advancement. He also alleges that Local 46 is entangled with the government  
 3 because they receive federal funding. But under the first prong of the analysis, these allegations  
 4 do not show Local 46's policies promoting religious activity are imposed by the state. Put  
 5 differently, Plaintiff does not link the religious activities at the National Training Institute to any  
 6 state authority. So, as alleged thus far, state action does not exist and the § 1983 claim fails. *See*  
 7 *Lindke*, 601 U.S. at 198–99.<sup>1</sup>

8 *Employment Law.*


9 The Complaint does not allege that Plaintiff was an employee of Local 46, who asserts  
 10 that he was never such an employee. Thus, Plaintiff's employment law claims (e.g., under 42  
 11 U.S.C. § 2000e-2(a)) fail.

12 *LMRDA.*

13 As argued by Local 46, Section 501 of the Labor Management Reporting and Disclosure  
 14 Act does not authorize lawsuits against unions. 28 U.S.C. § 501. Plaintiff does not appear to  
 15 respond to this argument. Also, the complaint does not allege that Plaintiff satisfied the  
 16 prerequisites for filing suit under § 501. Thus, his LMRDA claim against Local 46 fails.

17 Given the foregoing, the Court GRANTS the motion and DISMISSES the claims against  
 18 Local 46 without prejudice. The Court grants Plaintiff, who is self-represented, leave to file an  
 19 amended complaint by Thursday, May 1, 2025.

20 Dated this 17th day of April, 2025.

21   
 22 John H. Chun  
 23 United States District Judge

24 <sup>1</sup> The complaint also appears to fail the second prong of the analysis. But the Court need not reach this question, as the first prong is not met.